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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman

GARY PIERCE
Commissioner

PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

Arizona Corporation Commission

DOCKETED

APR 14 2010

DOCKETED BY

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IN THE MATTER OF SOLARCITY
CORPORATION REGARDING ITS
REQUEST FOR SPECIAL CONTRACT
APPROVAL FOR SOLAR SERVICES
AGREEMENTS

DOCKET NO. E-20690A-10-0012

DECISION NO. 71644

ORDER

Open Meeting
March 31 and April 1, 2010
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

A. BACKGROUND

1. On July 2, 2009, SolarCity Corporation ("SolarCity" or "Company") filed with the Arizona Corporation Commission ("Commission") in Docket No. E-20690A-09-0346 an application for a determination that it is not acting as a public service corporation when it provides certain specific solar electric services to Arizona schools, governments, and non-profit entities ("Application"). The Application additionally requests expedited consideration of two specific Solar Service Agreements ("SSAs" or "Agreements") that it has entered with the Scottsdale Unified School District. The affected schools are Coronado High School, which is located at 2501 North 74th Street in Scottsdale, and Desert Mountain High School, located at 12575 East Via Linda in Scottsdale.

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1 2. SolarCity stated in its Application that expedited consideration is necessary to allow
2 Arizona to maximize its allocation of federal stimulus funding under the American Reinvestment
3 and Recovery Act and to maximize available federal tax incentives.

4 3. On July 16, 2009, a procedural conference was held to discuss processing the
5 Application. Appearing at the Procedural Conference were the following entities: SolarCity,
6 Arizona Public Service Company ("APS"), Salt River Project ("SRP"), Tucson Electric Power
7 Company, UNS Electric, Navopache Electric Cooperative, Inc., Mohave Electric Cooperative,
8 Inc., Freeport-McMoRan, Arizonans for Electric Choice & Competition, Residential Utility
9 Consumer Office, and Commission Utilities Division Staff ("Staff").

10 4. At the Procedural Conference, there was general agreement among the parties that
11 an adjudication process usually requires the development of a factual record. The determination of
12 whether SolarCity is a public service corporation will likely require an evidentiary hearing in order
13 for the Commission to have an adequate record upon which to base its Decision. At the Procedural
14 Conference, the possibility of a more streamlined form of regulation was also discussed for entities
15 such as SolarCity should it be found to be acting as a public service corporation.

16 5. In order to allow SolarCity to take advantage of federal stimulus funding, Staff
17 proposed a two-part procedure for processing the Application. This procedure would allow the
18 Commission to issue "preliminary relief" through a Commission Decision by the August 2009
19 Open Meeting. The first step of Staff's proposed procedure involves review and evaluation of the
20 SSAs as special contracts ("Track 1") for the purpose of positioning the Company to move
21 forward pending the completion of an adjudication proceeding.

22 6. The adjudication proceeding ("Track 2") is the second step of the proposed
23 procedure. The adjudication proceeding is designed to address SolarCity's arguments that it is not
24 acting as a public service corporation with respect to its provision of service to the Scottsdale
25 Unified School District.

26 7. This bifurcated procedure is meant not only to provide a means by which SolarCity
27 can proceed with the projects identified in the Application, but also to allow an adequate
28 evidentiary record for consideration of the issue of whether SolarCity is acting as a public service

1 corporation through Track 2. Staff proposed that Track 1 (evaluation of the Agreements as special
2 contracts) occur without prejudice to whatever position SolarCity, Staff, or any other party would
3 choose to take in the adjudication proceeding.

4 8. The parties appearing at the Procedural Conference generally supported Staff's
5 proposed Track 1 and Track 2 process as long as the Commission's approval of the two SSAs as
6 special contracts is without prejudice to consideration of Track 2 issues.

7 9. Staff's bifurcated procedural proposal was adopted in the Procedural Order of
8 July 22, 2009. The Procedural Order required Staff to file a Staff report that includes an
9 evaluation of the two SSAs that SolarCity has entered with the Scottsdale Unified School District
10 for Coronado High School and Desert Mountain High School, and a recommendation to the
11 Commission for action thereon.

12 10. For Track 2, the Procedural Order established a procedural schedule for the filing of
13 testimony and an evidentiary hearing on the issues raised by the Application.

14 11. Decision No. 71277 of September 2009 approved rates in response to SolarCity's
15 Track I Application for Coronado High School and Desert Mountain High School.

16 12. On January 14, 2010, SolarCity filed with the Commission (Docket No. E-20690A-
17 09-0346) a second Track I application ("Track 1.1") for special contract approval of rates for SSAs
18 with Casa Grande Elementary School District for its Cholla Elementary School ("Cholla") and
19 Scottsdale Unified School District for its Copper Ridge Middle School ("Copper Ridge").

20 13. This recommended order deals with the Track 1.1 application.

21 **B. STAFF ANALYSIS – SOLARCITY'S SSA WITH SCOTTSDALE UNIFIED**
22 **SCHOOL DISTRICT AND SOLARCITY'S SSA WITH CASA GRANDE**
23 **ELEMENTARY SCHOOL DISTRICT**

24 **General Provisions Relating to the SSAs**

25 14. SolarCity and the Scottsdale Unified School District have entered into an SSA for a
26 photovoltaic project at Copper Ridge. SolarCity and the Casa Grande Elementary School District
27 have entered into a similar SSA for Cholla.

28 15. The costs to provide and install the photovoltaic ("PV") systems would be borne by
SolarCity, and the School Districts would receive energy produced by the systems for a period of

1 fifteen years at a contract rate of \$0.09 per kWh. SolarCity would retain ownership of the PV
2 equipment.

3 16. The SSAs contain a provision that stipulates that the \$0.09 per kWh rate is subject
4 to modification ("rebate variance") should anticipated rebates from APS change or become
5 unavailable. The Agreements assume a rebate from APS of \$2.25 per Watt. Should the actual
6 rebate be lower than anticipated, the contract price would be adjusted to reflect the actual rebate
7 received pursuant to the SSAs. SolarCity has communicated to Staff through response to a data
8 request, however, that reservations for the rebates have been made and that a rebate variance will
9 not occur.

10 17. At the end of the fifteen-year contract period, the School Districts will have an
11 option to purchase the system at the higher of the specified contract price or fair market value.
12 Alternatively, the School Districts can ask that the equipment be removed.

13 18. In the first Track I filing that occurred in Docket No. E-20690A-09-0346, SolarCity
14 asked for approval of a \$0.11 per kWh rate. In Decision No. 71277 (September 2009), the
15 Commission ordered that a rate of \$0.11 per kWh for the Desert Mountain High School Solar
16 Service Agreement and the Coronado High School Solar Service Agreement be approved and that
17 the rate may be adjusted upward to a maximum of \$0.1424 per kWh, pursuant to the Solar Service
18 Agreement's rebate-variance provision.

19 19. Later, SolarCity made an application seeking to amend the Tract I Order to lower
20 the bottom range of the approved rate from \$0.11 per kWh to \$0.09 per kWh.

21 20. In Decision No. 71443 (December 2009), the Commission ordered that the rate of
22 \$0.09 per kWh for the Desert Mountain High School Solar Service Agreement and the Coronado
23 High School Solar Service Agreement be approved and that this rate may be adjusted upward to a
24 maximum of \$0.1424 per kWh, pursuant to the Solar Service Agreement's rebate-variance
25 provision.

26 21. The instant application does not appear to specify a particular rate or rate range that
27 is requested; however, the SSAs specify a contract rate of \$0.09 per kWh. Staff inquired of
28 SolarCity whether a particular rate or rate range was sought. SolarCity replied that because the

rebates have been reserved, SolarCity is seeking approval of the stated rate of \$0.09/kWh and no rate range is necessary.

Copper Ridge Middle School (Scottsdale Unified School District /APS Service Territory)

22. The SSA for Copper Ridge specifies the installation of a 510 kW PV system to generate a part of its electric load.

23. Copper Ridge currently purchases its electric power from APS under the APS E-32 rate schedule. The Scottsdale Unified School District has communicated to Staff that, after installing the PV equipment, Copper Ridge will be served under either APS' E-32 tariff or alternatively under the EPR-6 tariff. Based on Staff's review of APS' tariffs, it appears that after installation of PV equipment, Copper Ridge would be on the APS EPR-6 (Net Metering) tariff. Schedule EPR-6 specifies that billing shall occur in accordance with the applicable Standard Retail Rate Schedule, which is presently E-32 Large (More than 400 kW) for Copper Ridge.

24. The APS E-32 Large rates for customers taking secondary service are currently as follows:

Basic Service Charge

\$1.627 per day

Per kW charges

\$9.384 per kW for the first 100 kW

plus \$4.993 per kW for all additional kW

Per kWh charges

\$0.10093 per kWh for the first 200 kWh per kW, plus \$0.05902 per kWh for all additional kWh during the months of May through October

\$0.0843 per kWh for the first 200 kWh per kW, plus \$0.04239 per kWh for all additional kWh during the months of November through April

25. Summer is defined as May through October. Winter is defined as November through April.

26. The Scottsdale Unified School District provided Staff with information from its cost-benefit analysis of the Copper Ridge SSA. The Scottsdale Unified School District relied on a cost-benefit analysis provided to it by SolarCity and independently verified assumptions contained

1 in the analysis. SolarCity also consulted with APS in regard to assumptions contained in the
2 analysis. The analysis demonstrates savings beginning in the first year of operation of the solar
3 facilities and continuing throughout a 26-year period.

4 27. Results of the Scottsdale Unified School District's analysis are included as
5 Attachment A to the Staff memorandum.

6 28. SolarCity also provided Staff with a cost-benefit analysis of the Copper Ridge SSA.

7 29. Results of the SolarCity analysis are included as Attachment B to the Staff
8 memorandum. The SolarCity analysis reflects the same information seen in Attachment A to the
9 Staff memorandum as it was the basis for Scottsdale Unified School District's analysis.

10 30. Staff also conducted a cost-benefit analysis of the installation of the proposed solar
11 facility for Copper Ridge based on the \$0.09 per kWh SSA rate and also found that benefits
12 exceeded costs. Staff's cost-benefit analysis calculates savings in each month of a single calendar
13 year and a positive total net savings for the calendar year.

14 31. Attachment C to the Staff Memorandum contains results of the cost-benefit analysis
15 performed by Staff for the Copper Ridge SSA.

16 32. Both the Scottsdale Unified School District's analysis and the SolarCity analyses
17 differ from Staff's in that they are multi-year rather than single-year analyses.

18 33. In consideration of all of the information received by Staff in its analysis, Staff
19 believes that a rate of \$0.09 per kWh is just and reasonable and should be approved by the
20 Commission.

21 **Cholla Elementary School (Casa Grande Elementary School District/ APS Service**
22 **Territory)**

23 34. The SSA for Cholla specifies the installation of a 275 kW photovoltaic ("PV")
24 system to generate a part of its electric load.

25 35. Cholla currently purchases its electric power from APS under the APS E-32 rate
26 schedule. The Casa Grande Elementary School District has communicated to Staff that, after
27 installing the PV equipment, Cholla will be served under either APS' E-32 tariff or alternatively
28 under the EPR-6 tariff. Based on Staff's review of APS' tariffs, it appears that after installation of

PV equipment, Cholla would be on the APS EPR-6 (Net Metering) tariff. Schedule EPR-6 specifies that billing shall occur in accordance with the applicable Standard Retail Rate Schedule, which is presently E-32 Medium (101 to 400 kW) for Cholla.

36. The APS E-32 Medium rates for customers taking secondary service are currently as follows:

Basic Service Charge

\$1.324 per day

Per kW charges

\$9.597 per kW for the first 100 kW

plus \$5.105 per kW for all additional kW

Per kWh charges

\$0.1032 per kWh for the first 200 kWh per kW, plus \$0.06034 per kWh for all additional kWh during the months of May through October

\$0.08619 per kWh for the first 200 kWh per kW, plus \$0.04334 per kWh for all additional kWh during the months of November through April

37. Summer is defined as May through October. Winter is defined as November through April.

38. The Casa Grande Elementary School District relied on a cost-benefit analysis provided to it by SolarCity.

39. SolarCity provided Staff with a cost-benefit analysis of the Cholla SSA.

40. Results of the SolarCity analysis are included as Attachment D to the Staff memorandum.

41. Staff also conducted a cost-benefit analysis of the installation of the proposed solar facility for Cholla based on the \$0.09 per kWh SSA rate and also found that benefits exceeded costs. Staff's cost-benefit analysis calculates savings in most months of a single calendar year and a positive total net savings for the calendar year.

42. Attachment E to the Staff Memorandum contains results of the cost-benefit analysis performed by Staff for the Cholla SSA.

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43. SolarCity's analysis differs from Staff's in that it is a multi-year rather than single-year analysis.

44. Note that in Staff's analysis benefits of accrued billing credits that result from net solar production in certain months are not included in this model, but will likely occur in practice.

45. In consideration of all of the information received by Staff in its analysis, Staff believes that a rate of \$0.09 per kWh is just and reasonable and should be approved by the Commission.

Fair Value Analysis

46. Staff also considered the fair value implications of this matter. Staff obtained information from SolarCity indicating that an estimated fair value for the assets to be used to serve the School Districts would be approximately \$3.3 million for Copper Ridge and \$1.8 million for Cholla. While Staff considered the fair value information submitted by SolarCity, this information should not be given substantial weight in this analysis. The rates contained in the SSA are heavily influenced by the availability of stimulus funds, other federal incentives, utility rebates, and certain market conditions. Staff believes that the proposed \$0.09 per kWh rate compares favorably to the rates the School Districts would otherwise pay and, under the circumstances presented herein, the proposed rates are just and reasonable.

C. STAFF RECOMMENDATIONS

47. Staff has recommended approval of the proposed SSA rates as special contract rates between SolarCity and the School Districts for solar facilities at Copper Ridge and Cholla in order to provide a means for the School Districts and SolarCity to move forward with these projects.

48. In consideration of all of the information received by Staff in its analysis, Staff believes that a rate of \$0.09 per kWh is just and reasonable and should be approved by the Commission.

49. Staff has recommended that the Commission's Order in this matter specify that approval of these rates as special contract rates does not prejudice any future consideration of whether SolarCity is acting as a public service corporation when it provides service pursuant to the SSAs at issue in this Docket.

CONCLUSIONS OF LAW

1. The Commission, having reviewed the Application and Staff's Memorandum dated March 16, 2010, concludes that it is in the public interest to extend preliminary relief to SolarCity, Casa Grande Elementary School District (for the Cholla Elementary School), and the Scottsdale Unified School District (for the Copper Ridge Middle School) while determination of whether SolarCity is a public service corporation remains open pending future determination of that issue in Track 2 of Docket No. E-20690A-09-0346.

2. The Commission's findings in this Track 1.1 are made without prejudice to the Applicant's and other parties' positions or arguments to be presented in Track 2 of Docket No. E-20690A-09-0346.

3. If the Applicant's request in Track 2 of Docket No. E-20690A-09-0346 is granted, and it is ultimately determined that SolarCity is not acting as a public service corporation when it enters into SSAs with schools, non-profits and governmental entities; then this Order will be void and of no further effect.

4. If the Applicant's request in Track 2 of Docket No. E-20690A-09-0346 is denied, and it is ultimately determined that SolarCity is acting as a public service corporation when it enters into SSAs with schools, non-profits and governmental entities; then the Commission's approval of the rates set forth in Copper Ridge SSA and the Cholla SSA as special contract rates herein shall survive that determination.

ORDER

IT IS THEREFORE ORDERED that the rates proposed in the Solar Service Agreements between SolarCity Corporation and Scottsdale Unified School District for a photovoltaic project at Copper Ridge Middle School and Casa Grande Elementary School District for a photovoltaic project at Cholla Elementary School be and hereby are approved as special contract rates as discussed herein.

IT IS FURTHER ORDERED that a rate of \$0.09 per kWh for the Copper Ridge Middle School Solar Service Agreement and the Cholla Elementary School Solar Service Agreement be approved.

1 IT IS FURTHER ORDERED that Commission approval by this Order does not prejudice
2 any party from asserting that SolarCity Corporation is not a public service corporation in the
3 subsequent adjudication proceeding in Track 2 of Docket No. E-20690A-09-0346.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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9 CHAIRMAN


COMMISSIONER

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12 COMMISSIONER


COMMISSIONER


COMMISSIONER

13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto, set my hand and caused the official seal of
16 this Commission to be affixed at the Capitol, in the City of
17 Phoenix, this 14th day of April, 2010.

18 
19 ERNEST G. JOHNSON
20 EXECUTIVE DIRECTOR

21 DISSENT: _____

22 DISSENT: _____

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